

OCAI Professional Development Conference

Recent Changes in Citizenship and Immigration Law

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Focus of Workshop

- Recent Changes to:
 1. Citizenship
 2. Family Class Sponsorship
 3. Live-in-Caregiver Program

Citizenship Changes

- Generally:
 - Much harder to qualify for Citizenship
 - More expensive to apply
 - Easier to be barred or have one's Citizenship revoked

New Residency Requirements (in effect June 11, 2015)

- Four years (1,460 days) out of the six years immediately before the date of application; and
- 183 days minimum of *physical presence* in Canada during each of four calendar years that are fully or partially within the six years immediately before the date of application
- Cannot use time in Canada before becoming PR

Language and Knowledge Requirements

- Expanding who needs to pass the test:
 - Legislation now requires applicants aged 14–64 to meet language requirements and pass knowledge test

Application Process

- Introduces “intent to reside” provision in application form
- Total fees increased from \$400 to \$630 (in effect January 1, 2015)
- Minister has authority to grant citizenship to any person to alleviate special and unusual hardship or to reward service of an exceptional value to Canada

Bars to Citizenship: Criminality

- Expansion of criminal prohibitions to bar applicants for crimes committed abroad. Not eligible for citizenship if:
 - serving a sentence outside Canada
 - charged with, on trial for, or involved in appeal of an equivalent indictable offence outside of Canada
 - convicted of equivalent indictable offence outside of Canada in four years before application (even if pardoned or granted amnesty)

Bars to Citizenship: Criminality

- Concerns:
 - “Citizenship can also be stripped for criminal convictions for similar offences that occur outside of Canada, regardless whether the regime or judicial system under which the person was convicted is undemocratic or lacks the rule of law.”

BCCLA

Revocation of Citizenship

- New grounds to revoke (in effect May 28, 2015): Dual Citizens and Permanent Residents
 - Served for country or armed group engaged in armed conflict with Canada
 - Convicted of terrorism, high treason, treason, or spying offences

Revocation of Citizenship

- Bodies with power of revocation
 - Minister of Citizenship and Immigration decides majority of cases (generally fraud)
 - Previously had appeal to Federal Court as of right, now need leave for Judicial Review
 - Federal Court decides complex cases: war crimes, crimes against humanity, security, other human or international rights violations, and organized criminality

Other Citizenship Changes

- Immigration consultants
- Taxes
- Stiffer Consequences of Misrepresentation

Family Class Sponsorship

- More restrictive requirements for parents & grandparents and dependant children sponsorships
- Conditional Permanent Residence status

Parents and Grandparents

- Maximum cap of 5000 complete application per year (Federal Liberals campaigned to double this)
- 20 year undertaking period
- Sponsors must meet LICO plus 30% for 3 year prior to application
 - Proof: notice of assessment issued by CRA for each 3 years

PGP cont'd

- New authority by CIC officers to request updated evidence of income from all sponsors who submit a sponsorship application

Other Related Changes

- Limit access to three important seniors' benefits: guaranteed income supplement, spousal allowance, and survivor allowance

20 Years Ban

- OAS Act provides that a sponsored immigrant cannot receive the GIS or allowances during the period of a sponsorship undertaking if they have lived in Canada for less than ten years.
- With the sponsorship period being doubled from 10 years to 20 years, sponsored parents not eligible for the GIS or other allowances even if they have lived in Canada for more than 10 years.

Dependants

- Lower age of dependant children
- Only children under 19 are eligible. Full-time students over 19 years old are no longer considered dependants

Conditional Permanent Residence

- Sponsored spouse or partner is required to cohabit in a conjugal relationship with their sponsor for a period of two years after the day on which they became a permanent resident.

Condition applies if

- Application to sponsor was put in on or after October 25th, 2012
- Couple has been together in a legitimate (marriage, common-law or conjugal) relationship for 2 years or less.
- Couple has no children together at the time of this application (having a child AFTER application is submitted will not change the condition.

Evidence of marriage, common-law or conjugal partnership

- Marriage certificate
- Evidence of cohabitation in a conjugal relationship for the purpose of determining a common-law relationship or a conjugal partnership.

Evidence of children in common

- Birth certificate or adoption records listing the names of both parents
- DNA certificate or report (should be used as a last resort.)

How can this conditional status be violated?

- If a sponsored person leaves the sponsor before the two years is up
- Anonymous complaints
- CIC investigation into the CPR

Repercussions of violating the condition

- Permanent residence status may be revoked
- Spouse may be deported
- Any family member who became a permanent resident based on accompanying or being sponsored by the sponsored spouse may also have permanent residence revoked and be deported

CIC enforcement of conditional status

- Conduct random assessments of couples
- Investigate tips, complaints, anonymous reports
- Require proof that the sponsor and sponsored person are complying with the 2 year condition

Exemptions from Condition

- Sponsor dies
- Relationship breaks down because due to sponsor's abuses or neglects sponsored immigrant or children
- Sponsor's failure to protect spouse or children, or a relative living with spouse from abuse or neglect by another person related to the sponsor.
- Forced Marriage

What constitutes abuse or neglect

- Physical Abuse:
 - Hitting, punching, slapping, burning, pushing or shoving in a way that could cause injury
 - Confining a woman or refusing to allow her contact with friends and family
 - Forcing a woman to take drugs or alcohol or do illegal things

Cont'd

- Sexual Abuse:
- Forcing, coercing, threatening or manipulating a woman to take part in unwanted sexual activity
- Using physical force, weapons, or objects in a sexual acts without a woman's consent

Cont'd – sexual abuse

- Involving or suggesting the involvement in sexual activity of a child or of someone who is unable to give valid consent for a reason such as illness, the influence of alcohol or drugs, or intimidation or pressure

Cont'd

- Psychological Abuse
 - *A pattern of controlling behavior, such as insulting, bullying, humiliating, threatening, name-calling, yelling, blaming, shaming, ridiculing, disrespecting, or criticizing her*
 - *Controlling what a woman can or not do*
 - *Threatening to commit suicide*

Cont'd, psychological abuse

- Threatening to cause death or injury
- Threatening to hurt or remove a woman's children
- Using personal beliefs such as the abuser's interpretation of religious or cultural beliefs to manipulate, dominate, or control a woman

Financial Abuse

- Aimed at keeping a women dependent on her sponsor
- Can include stealing a woman's money
- Controlling finances or refusing to share money
- Preventing a woman from working or going to school
- Causing a woman to lose her job, for example, by making her miss work

Process for getting exemption from condition

- STEP ONE: Leave
- Tip: Before leaving the relationship, gather all information relevant to demonstrating abuse/neglect AND the existence of a genuine relationship.

Cont'd

- STEP TWO: Request for exemption
- Call the CIC Call Centre at 1-888-242-2100 or directly with the responsible local CIC office conducting an investigation.
- Tip: Call with a support person, interpreter and /or a legal worker/lawyer and provide contact information for a confidential call

Cont'd

- STEP THREE: CIC calls back for a brief phone interview (may or may not ask sensitive questions that could add the CPR's trauma)
- *Note:* Any information of abuse to, or witnessed by a child may be reported by CIC to child protection authorities or police, with or without the mother's consent

Cont'd

- STEP FOUR: CIC requests written submissions/evidence of abuse and existence of a genuine relationship within a specified time period.

Evidence needed to demonstrate abuse or neglect

- Sworn statement with details of abuse or neglect
- Letters from shelter or other social support
- Police report
- Medical report
- Court documents – criminal charges, bail conditions, probation orders, peace bonds
victim impact statements

Cont'd

- Photographs, emails, voicemail
- Witnesses' statements
- Must demonstrate that abuse/neglect was the reason for relationship breakdown

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- The background of the slide features a pattern of stylized, overlapping leaves in various shades of orange and yellow, creating a warm, autumnal feel.
- Need evidence to demonstrate the existence of a genuine relationship with your sponsor until the relationship ended due to abuse or neglect.

Evidence of cohabitation

- Documents showing residing with sponsor and continue to reside with sponsor from date of arrival as a permanent resident to present.
 - Example: documents showing same address and joint arrangements, such as Government issued identification documents, driver's licenses, insurance policies, bank statements, etc.

Cont'd

- Brief history of relationship with sponsor since you became a permanent resident describing items such as shared responsibilities, work, studies, address history, activities, maximum of 2-3 pages in length.
- Photographs with sponsor from the time of landing (photos must be original)

Cont'd

- If marriage has ended, date of actual separation and reasons for breakdown.
- Copy of separation or divorce proceedings between with date of separation.
- Provide details regarding any children involved in the relationship, including their dates of birth, country of birth and parent's names.

Cont'd

- Photocopy of passport pages since landing
- Copy of notice of assessment for the past year.
- Any additional documents showing marriage was not entered into solely for immigration purposes.

Cont'd

- STEP FIVE: CIC in person interview
- Questions about relationship
- Questions about the abuse
- Questions about situation subsequent to the ending of the relationship

Cont'd

- STEP SIX: A decision to grant the exemption or send the file on for a s. 44(1) investigation of misrepresentation, leading to an inadmissibility report

What if exemption denied

- Referral to Immigration Division for removal
- Appeal to the Immigration Appeal Division
- Appeal on grounds of law and/or humanitarian factors
- Federal Court judicial review

Live in Caregiver Program

- Two new categories:
 - caring for children
 - caring for people with high medical needs
- Annual cap of 5500 (2750 for each category)
 - Well below annual average of 8000 from 2010-2014

Live in Caregiver Program

- Increased educational and work requirements (new categories)
 - One-year completed Canadian post-secondary credential, or equivalent foreign credential
 - Minimum of two years of Canadian work experience to complete employment requirements of the program

Live in Caregiver Program

- Loosened living requirements
 - No live in requirement, caregiver can choose not to live at employer's home
 - But, can fall out of old program

Live in Caregiver Program

- Changing Jobs
 - Old program
 - apply for Live-in Caregiver Program work permit
 - New program
 - apply for regular work permit, need positive LMIA

Live in Caregiver Program

- 4 year requirement: applying for Permanent Residence
 - Need to fulfill the 24 months of full time work experience as eligible caregiver within 4 years of arriving in Canada or will be sent home

Changes with New Government

- What has Trudeau promised?
 - Increase annual quota of PGP from 5,000 to 10,000
 - Changes to family class to ease sponsorship of “relatives”
 - Repeal Conditional Permanent Resident Status



Questions?